

National Marine Fisheries Service/NOAA, Commerce

§ 217.14

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AUTHORITY: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

SOURCE: 74 FR 35143, July 20, 2009, unless otherwise noted.

Subpart A [Reserved]

Subpart B—Taking of Marine Mammals Incidental to Coastal Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

SOURCE: 77 FR 31544, May 29, 2012, unless otherwise noted.

EFFECTIVE DATE NOTE: 77 FR 31544, May 29, 2012, subpart B was added, effective June 28, 2012 through June 28, 2017.

§ 217.11 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the Monterey Bay National Marine Sanctuary (MBNMS) and those persons it authorizes to display fireworks within the MBNMS for the taking of marine mammals that occurs in the area described in paragraph (b) of this section and that occurs incidental to authorization of commercial fireworks displays.

(b) The taking of marine mammals by MBNMS may be authorized in a Let-

ter of Authorization (LOA) only if it occurs in waters of the MBNMS.

§ 217.12 Effective dates.

Regulations in this subpart are effective from June 28, 2012, through June 28, 2017.

§ 217.13 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§ 216.106 and 217.17 of this chapter, the Holder of the LOA (hereinafter “MBNMS”) may incidentally, but not intentionally, take marine mammals within the area described in § 217.11(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 217.11(a) of this chapter is limited to the following species and is limited to Level B Harassment:

(1) Harbor seal (*Phoca vitulina*)—1,150 (an average of 230 annually)

(2) California sea lion (*Zalophus californianus*)—21,095 (an average of 4,219 annually)

§ 217.14 Prohibitions.

Notwithstanding takings contemplated in § 217.11 of this chapter and authorized by a LOA issued under §§ 216.106 and 217.17 of this chapter, no person in connection with the activities described in § 217.11 of this chapter may:

(a) Take any marine mammal not specified in § 217.13(b) of this chapter;

(b) Take any marine mammal specified in § 217.13(b) of this chapter other than by incidental, unintentional Level B harassment;

(c) Take a marine mammal specified in § 217.13(b) of this chapter if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 and 217.17 of this chapter.